

Changes to the Local Lodging Regime

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With the aim of fostering a balanced consolidation of local lodging activity within the housing sector, while respecting the constitutionally enshrined rights of private initiative, private property and housing, considering both economic and urban impacts, the XXIV Constitutional Government has implemented significant changes to the legal regime for the operation of local lodging establishments, [through Decree-Law no. 128/2014](#), of 29 August ("RJEAL"). These changes involve the repeal of several provisions set out in Law no. 56/2023, of 6 October, which was published during the previous legislative term and introduced measures under the "*Mais Habitação Programme*".

Below, we highlight the main changes introduced by [Decree-Law 76/2024](#) of 23 October ("**Decree-Law 76/2024**"), which will come into effect on 1 November 2024.

I. Repeal of the following provisions introduced by the "*Mais Habitação Programme*"

- 1. Elimination of the renewal requirement for local lodging registrations** - Under Law 56/2023 of 6 October, the registration of local lodging establishments was limited to five-year terms, with the option of renewal for equal periods. This provision has now been revoked.
- 2. End of the suspension of new local lodging registrations** - Law no. 56/2023, of 6 October, had suspended the registration of new local lodging establishments (flats and lodging establishments within autonomous factions of buildings) across the national territory, with the exception of the inland areas identified in the annex to Ordinance no. 208/2017, of 13 July. This suspension has now been revoked.
- 3. End of the review of existing local lodging registrations** - Under Law no. 56/2023, of 6 October, local lodging registrations in effect as of the law's entry into force, would be reviewed during the year 2030. This review has also been revoked by Decree-Law 76/2024; and
- 4. Lapse of inactive registrations** - Under Law no. 56/2023, of 6 October, it was stipulated that local lodging registration holders had to prove that they were continuing to operate the respective local lodging establishment within a maximum period of 2 months from the entry into force, under penalty of the registration lapsing. This requirement has also been repealed by [Decree-Law 76/2024](#).

II. Changes to the Local Lodging regime

1. Municipal regulations on local lodging

Municipalities can approve an administrative regulation concerning local lodging activity within their territory. In municipalities with more than 1,000 registered local lodging establishments, the municipal assembly **must expressly decide, within a maximum of**

12 months from the date on which the municipality reaches 1,000 registrations, whether to exercise the regulatory power provided for in the previous paragraph .¹

The regulations may provide for the appointment of a local lodging ombudsman to assist the municipality in managing disputes between residents, owners of local lodging establishments, tenants or third parties. The ombudsman's role will include evaluating complaints, issuing recommendations, and approving and implementing good practice guidelines on the operation of this activity.

2. Operation of local lodging in autonomous units and respective prior notification requirements

The requirement for a condominium decision to approve local lodging activities has been revoked whenever the respective establishment is registered in an autonomous unit that is intended for habitation, in the constitutive title of the horizontal property. As a result, it is no longer mandatory to include the minutes of the condominium meeting authorizing the establishment in the prior notification. This obligation now only applies to local lodging establishments in the form of *hostels* located in an autonomous unit (buildings subject to the horizontal property regime).

3. Grounds for opposition to local lodging registration and deadline for opposition

Decree-Law 76/2024 introduces two additional grounds for the mayor to oppose the communication for the registration of local lodging:

- a. violation of municipal restrictions regarding containment areas and sustainable growth areas, or failure to authorise the appropriate use of the building; and
- b. non-compliance with applicable legislation.

The deadlines for opposing prior notification for the registration of local lodging have also been changed. The mayor can now oppose registration within a maximum of 60 days from its submission, or within a maximum of 90 days for establishments in containment areas.

Those interested in a registration may also request a municipal inspection to review an opposition decision, with the inspection costs borne by the interested party.

4. Transferability of local lodging registration

Since 2018, the RJEEAL had provided for limitations on the transferability of local lodging registrations. Decree-Law 76/2024 repeals these limitations in general.

However, municipalities can establish, in the respective municipal regulations for the containment zones, proportional limitations on the transferability of the **new** registration numbers of the local lodging establishment, in the 'villa' and 'flat' modalities (see point 8 for more details on this possibility).

¹ The municipal assemblies of municipalities which, on the date of entry into force of **Decree-Law 76/2024**, have more than 1,000 registered local accommodation establishments, must expressly decide within a maximum of 12 months whether to exercise regulatory power.

5. Grounds for cancellation of local lodging registration

The following grounds have been added to those previously provided for the cancellation of local lodging establishment registrations by the competent mayor:

- a. Lack of valid compulsory insurance or failure to submit insurance documentation. (see Article 13a(7));
- b. Repeated and proven practice of acts that disturb the normal use of the urban building, in cases where the procedure is not closed by accepting commitments and conditions (see point 6 below); and
- c. In areas of contention, if a property had urban rental contracts for permanent housing within two years before the local lodging registration request, in violation of the applicable municipal regulations.

6. Changes to condominium powers

Following the publication of Law no.º 56/2023, in the event that the local lodging activity is carried out in an autonomous unit of a building or part of an urban building that can be used independently, the condominium owners' meeting, could oppose local lodging activity in that unit, by resolution of at least two thirds of the building's permillage, , unless the constitutive title expressly provided for the use of the unit for local lodging purposes or the condominium meeting had previously authorized the use. This resolution had to be sent to the mayor, with the cancellation taking effect 60 days after submission.

Now, with the changes promoted by Decree-Law 76/2024, the condominium owners' meeting can continue to oppose the exercise of local lodging activity in the unit, with a simple majority of the building's permillage, if based on repeated disturbances. After the resolution, the owners' meeting must **request a decision from the mayor of the municipality with territorial jurisdiction.**

Once the resolution of the condominium owners' meeting has been received, the mayor can promote the cancellation of the local lodging registration or invite the parties involved to reach an agreement, potentially involving a local lodging ombudsman, with a view to closing the procedure by accepting commitments and conditions.

It should be noted that the decision to cancel the registration following the condominium's resolution implies that the property in question cannot be operated as local lodging, for a period set in the decision (up to five years), regardless of ownership (until Decree-Law 76/2024 came into force, the property could not be operated as local lodging until the condominium meeting decided otherwise).

7. Maximum capacity

Although with less impact, Decree-Law 76/2024 determined that the maximum capacity of local lodging establishments, with the exception of 'rooms' and 'hostels', is nine rooms and 27 users (previously 30 users). Additionally, supplementary or convertible

beds may be installed, provided they do not exceed 50% of the fixed bed capacity (previously limited to a maximum of two beds for children up to 12 years old).

8. Insurance

A new paragraph has been added to article 13-A, which states that it is the responsibility of the holder of the holding to cover, through insurance contracts, the risks provided for in the REEAL and in Ordinance no. 248/2021, of 29 June.. Municipalities can request proof of insurance, which must be provided within three days, under penalty of registration cancellation.

9. Amendment of the rules on containment areas and creation of sustainable growth areas

The competent municipality may approve, through the regulation referred to in point 1, the existence of containment areas and sustainable growth areas, by parish or union of parishes, in whole or in part, for the establishment of new local lodging. Municipalities may impose limits on the number of new local lodging registrations allowed for each of these areas, depending on factors such as housing and environmental pressure.

For this purpose, "**containment areas**" are areas where there is an oversaturation of lodging establishments that may justify restrictions on the establishment of new ones. "**Sustainable growth areas**" are those where special monitoring and follow-up measures are necessary to prevent an overload situation with undesirable effects on neighbourhoods and places.

The creation and periodic evaluation of containment and sustainable growth areas, conducted every three years, must be based on a study that specifically assesses the concentration and impact of local lodging in different areas of the municipality, ensuring that the indicators and rules applied are proportionate.

(A) Containment areas

In containment areas, municipalities can determine:

- i. no new registrations of local lodging establishments may be authorised in urban buildings, autonomous units or parts of urban buildings that can be used independently and that have been under an urban rental contract for housing in the two years prior to registration;
- ii. limits on the number of local lodging establishments in the territory, namely in proportion to the number of dwellings available for habitation;
- iii. exceptional situations in which the establishment of new local lodging may be permitted;

- iv. conditions and limits applicable to new local lodging registrations, particularly regarding their duration and allocation rules, while respecting the protection of holders' trust and competition between operators;
- v. proportional limitations on the transferability of new local lodging establishment registration numbers, in the "villa" and "flat" modalities, without affecting cases of succession, free transfer of the local lodging unit to a spouse or unmarried partner, descendants or ascendants or divorce, legal separation of persons and property, or dissolution of the unmarried partnership.

To ensure the effectiveness of a future municipal regulation, municipalities may suspend the authorisation of new registrations in specifically delimited areas for a maximum period of one year, until the said regulation comes into force, through a reasoned decision of the municipal assembly, upon proposal of the municipal council.

Under the previous legislation, in the defined containment areas, a single owner could only operate up to seven local lodging establishments, and this provision, and consequent limitation, was removed by the amendments introduced in Decree-Law 76/2024.

(B) Areas of sustainable growth

In areas of sustainable growth, municipalities can establish additional requirements for the establishment of new local lodging, namely:

- i. no new registrations of local lodging establishments may be authorised in urban buildings, autonomous units or parts of urban buildings that can be used independently and that have been under an urban rental contract for housing in the two years prior to registration;
- ii. medium or superior state of repair, as certified by a qualified technician,, which may be confirmed by an inspection to be carried out by the city council's services;
- iii. energy efficiency rating of D or higher, as certified for this purpose by a competent authority;
- iv. maintenance of a certain proportion or minimum number of units or parts of a building susceptible to independent use intended for habitation, in which local lodging establishments do not operate.

10. Clarification of valid and compatible uses for local lodging

According to Article 6(1)(a), the prior notice with a deadline addressed to the mayor must include, among other things, the property's authorisation for use or valid use permit. In response to a constitutional challenge on this matter, Article 6 - B was added by Decree-Law 76/2024 to clarify this issue.

The solution adopted was to delegate the designation of valid uses to each of the municipalities, which must define them in the respective municipal regulations referred to in point 1. In the absence of a provision in a municipal regulation, the uses are allowed

under the applicable Urbanization and Building Regulations or other uses that the municipality deems compatible with the operation of local lodging will be accepted.

The regulatory provisions and authorisations referred to in the previous paragraph must consider the following:

- a) In the "rooms" modality, only residential use is permitted;
- b) In the "villa" and "flat" modalities, the admissibility of non-residential use depends on compliance with the requirements established in the local lodging legal regime;
- c) In the "lodging establishments" category, including those using the *hostel* designation, the town hall may allow non-residential uses depending on the type of lodging and its capacity.

A paragraph has also been introduced to clarify that, without prejudice to any prohibition on the exercise of local lodging activities in the constitutive title of the horizontal property, or in the condominium regulations that form an integral part of it, or even through a subsequent resolution of the condominium owners' meeting (which must be approved by a majority representing two-thirds of the building's total value, and will only apply to future registrations), the establishment and operation of local lodging in an autonomous unit does not constitute a change in the property's intended use for the purposes of Article 1422(2)(c) of the Civil Code. It must coexist within the framework of the permissible urban uses for the area, ensuring the harmony and coexistence of the activities taking place in the other units.



Contacts Abreu Advogados

Patrícia Viana - Partner

patricia.viana@abreuvadogados.com

Tiago Mendonça e Castro – Partner

tiago.m.castro@abreuvadogados.com